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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 EVALYN MARTINEZ, an individual,

12
13 Plaintiff,

14 v.

15 CITY OF LOS ANGELES, DOES 1
16 through 20, inclusive,

17 Defendant.

Case No. **2:23-cv-09491-SVW-SK**

STIPULATED PROTECTIVE
ORDER

18 1. A. PURPOSES AND LIMITATIONS

19 Discovery in this action is likely to involve production of confidential,
20 proprietary, or private information for which special protection from public
21 disclosure and from use for any purpose other than prosecuting this litigation may
22 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
23 enter the following Stipulated Protective Order. The parties acknowledge that this
24 Order does not confer blanket protections on all disclosures or responses to
25 discovery and that the protection it affords from public disclosure and use extends
26 only to the limited information or items that are entitled to confidential treatment
27 under the applicable legal principles. The parties further acknowledge, as set forth
28 in Section 12.3 (Filing Protected Material), below, that this Stipulated Protective

1 Order does not entitle them to a file confidential information under seal; Civil Local
2 Rule 79-5 sets forth the procedures that must be followed and the standards that will
3 be applied when a party seeks permission from the court to file material under seal.
4

5 B. GOOD CAUSE STATEMENT

6 This action involves the City of Los Angeles and members of the Los Angeles
7 Police Department. Plaintiff is seeking materials and information that Defendants the
8 City of Los Angeles et al. (“City”) maintains as confidential, such as personnel files
9 of the police officers involved in this incident, Internal Affairs materials and
10 information, video recordings, audio recordings, photographs, Internal Investigation
11 materials and information and other administrative materials and information
12 currently in the possession of the City and which the City believes need special
13 protection from public disclosure and from use for any purpose other than prosecuting
14 this litigation. Further, Plaintiff is seeking information that involves minors and
15 information provided by third-party witnesses. Plaintiff is also seeking official
16 information contained in the personnel files of the police officers involved in the
17 subject incident, which the City maintains as strictly confidential and which the City
18 believes need special protection from public disclosure and from use for any purpose
19 other than prosecuting this litigation.

20 The City asserts that the confidentiality of the materials and information sought
21 by Plaintiff is recognized by California and federal law, as evidenced inter alia by
22 California *Penal Code* section 832.7 and *Kerr v. United States Dist. Ct. for N.D. Cal.*,
23 511 F.2d 192, 198 (9th Cir. 1975), *aff’d*, 426 U.S. 394 (1976). The City has not
24 publicly released the materials and information referenced above except under
25 protective order or pursuant to a court order, if at all. These materials and information
26 are of the type that has been used to initiate disciplinary action against Los Angeles
27 Police Department (“LAPD”) officers, and has been used as evidence in disciplinary
28 proceedings, where the officers’ conduct was considered to be contrary to LAPD
policy.

1 The City contends that absent a protective order delineating the responsibilities
2 of nondisclosure on the part of the parties hereto, there is a specific risk of unnecessary
3 and undue disclosure by one or more of the many attorneys, secretaries, law clerks,
4 paralegals and expert witnesses involved in this case, as well as the corollary risk of
5 embarrassment, harassment and professional and legal harm on the part of the LAPD
6 officers referenced in the materials and information.

7 The City also contends that the unfettered disclosure of the materials and
8 information, absent a protective order, would allow the media to share this
9 information with potential jurors in the area, impacting the rights of the City herein to
10 receive a fair trial.

11 Accordingly, to expedite the flow of information, to facilitate the prompt
12 resolution of disputes over confidentiality of discovery materials, to adequately
13 protect information the parties are entitled to keep confidential, to ensure that the
14 parties are permitted reasonable necessary uses of such material in preparation for and
15 in the conduct of trial, to address their handling at the end of the litigation, and serve
16 the ends of justice, a protective order for such information is justified in this matter.
17 It is the intent of the parties that information will not be designated as confidential for
18 tactical reasons and that nothing be so designated without a good faith belief that it
19 has been maintained in a confidential, non-public manner, and there is good cause
20 why it should not be part of the public record of this case.

21 Plaintiff agrees that there is Good Cause for a Protective Order so as to preserve
22 the respective interests of the parties while streamlining the process of resolving any
23 disagreements.

24 The parties therefore stipulate that there is Good Cause for, and hereby
25 jointly request that the honorable Court issue a Protective Order regarding
26 confidential documents consistent with the terms and provisions of this Stipulation.
27 However, the entry of a Protective Order by the Court pursuant to this Stipulation
28 shall not be construed as any ruling by the Court on the aforementioned legal

1 statements or privilege claims in this section, no shall this section be construed as
2 part of any such Court Order.

3 2. DEFINITIONS

4 2.1 Action: this pending federal law suit.

5 2.2 Challenging Party: a Party or Non-Party that challenges the
6 designation of information or items under this Order.

7 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
8 how it is generated, stored, or maintained) or tangible things that qualify for
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
10 the Good Cause Statement.

11 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
12 their support staff).

13 2.5 Designating Party: a Party or Non-Party that designates information
14 or items that it produces in disclosures or in responses to discovery as
15 “CONFIDENTIAL.”

16 2.6 Disclosure or Discovery Material: all items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced
19 or generated in disclosures or responses to discovery in this matter.

20 2.7 Expert: a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as
22 an expert witness or as a consultant in this Action.

23 2.8 House Counsel: attorneys who are employees of a party to this Action.
24 House Counsel does not include Outside Counsel of Record or any other outside
25 counsel.

26 2.9 Non-Party: any natural person, partnership, corporation, association,
27 or other legal entity not named as a Party to this action.

28 2.10 Outside Counsel of Record: attorneys who are not employees of a

1 party to this Action but are retained to represent or advise a party to this Action and
2 have appeared in this Action on behalf of that party or are affiliated with a law firm
3 which has appeared on behalf of that party, including support staff.

4 2.11 Party: any party to this Action, including all of its officers, directors,
5 employees, consultants, retained experts, and Outside Counsel of Record (and their
6 support staffs).

7 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
8 Discovery Material in this Action.

9 2.13 Professional Vendors: persons or entities that provide litigation
10 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
11 demonstrations, and organizing, storing, or retrieving data in any form or medium)
12 and their employees and subcontractors.

13 2.14 Protected Material: any Disclosure or Discovery Material that is
14 designated as “CONFIDENTIAL.”

15 2.15 Receiving Party: a Party that receives Disclosure or Discovery
16 Material from a Producing Party.

17 18 3. SCOPE

19 The protections conferred by this Stipulation and Order cover not only
20 Protected Material (as defined above), but also (1) any information copied or
21 extracted from Protected Material; (2) all copies, excerpts, summaries, or
22 compilations of Protected Material; and (3) any testimony, conversations, or
23 presentations by Parties or their Counsel that might reveal Protected Material.

24 Any use of Protected Material at trial shall be governed by the orders of the
25 trial judge. This Order does not govern the use of Protected Material at trial.

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1 4. DURATION

2 Once a case proceeds to trial, all of the information that was designated as
3 confidential or maintained as such pursuant to this protective order and that is
4 introduced or admitted as an exhibit at trial becomes public and will be presumptively
5 available to all members of the public, including the press, unless compelling reasons
6 supported by specific factual findings to proceed otherwise are made to the trial judge
7 in advance of the trial. See Kamakana v. City and County of Honolulu, 447 F.3d
8 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing
9 documents produced in discovery from “compelling reasons” standard when merits-
10 related documents are part of court record). Accordingly, the terms of this protective
11 order do not extend to that Protected Material admitted into evidence beyond the
12 commencement of the trial.

13 Even after final disposition of this Action, the confidentiality obligations
14 imposed by this Order shall remain in effect as to all Protected Material that was not
15 introduced or not admitted into evidence at trial, until a Designating Party agrees
16 otherwise in writing or a court order otherwise directs. Final disposition shall be
17 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
18 or without prejudice; and (2) final judgment herein after the completion and
19 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
20 including the time limits for filing any motions or applications for extension of time
21 pursuant to applicable law.

22
23 5. DESIGNATING PROTECTED MATERIAL

24 5.1 Exercise of Restraint and Care in Designating Material for Protection.

25 Each Party or Non-Party that designates information or items for protection under
26 this Order must take care to limit any such designation to specific material that
27 qualifies under the appropriate standards. The Designating Party must designate for
28 protection only those parts of material, documents, items, or oral or written

1 communications that qualify so that other portions of the material, documents,
2 items, or communications for which protection is not warranted are not swept
3 unjustifiably within the ambit of this Order.

4 Mass, indiscriminate, or routinized designations are prohibited. Designations
5 that are shown to be clearly unjustified or that have been made for an improper
6 purpose (e.g., to unnecessarily encumber the case development process or to impose
7 unnecessary expenses and burdens on other parties) may expose the Designating
8 Party to sanctions.

9 If it comes to a Designating Party's attention that information or items that it
10 designated for protection do not qualify for protection, that Designating Party must
11 promptly notify all other Parties that it is withdrawing the inapplicable designation.

12 5.2 Manner and Timing of Designations. Except as otherwise provided in
13 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise
14 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
15 under this Order must be clearly so designated before the material is disclosed or
16 produced.

17 Designation in conformity with this Order requires:

18 (a) for information in documentary form (e.g., paper or electronic
19 documents, but excluding transcripts of depositions or other pretrial or trial
20 proceedings), that the Producing Party affix at a minimum, the legend
21 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
22 contains protected material. If only a portion or portions of the material on a page
23 qualifies for protection, the Producing Party also must clearly identify the protected
24 portion(s) (e.g., by making appropriate markings in the margins).

25 A Party or Non-Party that makes original documents available for
26 inspection need not designate them for protection until after the inspecting Party has
27 indicated which documents it would like copied and produced. During the
28 inspection and before the designation, all of the material made available for

1 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
2 identified the documents it wants copied and produced, the Producing Party must
3 determine which documents, or portions thereof, qualify for protection under this
4 Order. Then, before producing the specified documents, the Producing Party must
5 affix the “CONFIDENTIAL legend” to each page that contains Protected Material.
6 If only a portion or portions of the material on a page qualifies for protection, the
7 Producing Party also must clearly identify the protected portion(s) (e.g., by making
8 appropriate markings in the margins).

9 (b) for testimony given in depositions that the Designating Party identify
10 the Disclosure or Discovery Material on the record, before the close of the
11 deposition all protected testimony.

12 (c) for information produced in some form other than documentary and
13 for any other tangible items, that the Producing Party affix in a prominent place on
14 the exterior of the container or containers in which the information is stored the
15 legend “CONFIDENTIAL.” If only a portion or portions of the information
16 warrants protection, the Producing Party, to the extent practicable, shall identify the
17 protected portion(s).

18 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
19 failure to designate qualified information or items does not, standing alone, waive
20 the Designating Party’s right to secure protection under this Order for such material.
21 Upon timely correction of a designation, the Receiving Party must make reasonable
22 efforts to assure that the material is treated in accordance with the provisions of this
23 Order.

24 25 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

26 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
27 designation of confidentiality at any time that is consistent with the Court’s
28 Scheduling Order.

1 6.2 Meet and Confer. The Challenging Party Shall initiate the dispute
2 resolution process under Civil Local Rule 37-1 et seq.

3 6.3 The burden of persuasion in any such challenge proceeding shall be
4 on the Designating Party. Frivolous challenges, and those made for an improper
5 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
6 parties), may expose the Challenging Party to sanctions. Unless the Designating
7 Party has waived or withdrawn the confidentiality designation, all parties shall
8 continue to afford the material in question the level of protection to which it
9 is entitled under the Producing Party's designation until the Court rules on the
10 challenge.

11
12 7. ACCESS TO AND USE OF PROTECTED MATERIAL

13 7.1 Basic Principles. A Receiving Party may use Protected Material that
14 is disclosed or produced by another Party or by a Non-Party in connection with
15 this Action only for prosecuting, defending, or attempting to settle this Action.
16 Such Protected Material may be disclosed only to the categories of persons and
17 under the conditions described in this Order. When the Action has been
18 terminated, a Receiving Party must comply with the provisions of Section 13 below
19 (FINAL DISPOSITION).

20 Protected Material must be stored and maintained by a Receiving Party at
21 a location and in a secure manner that ensures that access is limited to the
22 persons authorized under this Order.

23 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
24 otherwise ordered by the Court or permitted in writing by the Designating Party, a
25 Receiving Party may disclose any information or item designated
26 "CONFIDENTIAL" only to:

27 (a) the Receiving Party's Outside Counsel of Record in this Action, as
28 well as employees of said Outside Counsel of Record to whom it is reasonably

1 necessary to disclose the information for this Action;

2 (b) the officers, directors, and employees (including House Counsel) of
3 the Receiving Party to whom disclosure is reasonably necessary for this Action;

4 (c) Experts (as defined in this Order) of the Receiving Party to whom
5 disclosure is reasonably necessary for this Action and who have signed the
6 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

7 (d) the Court and its personnel;

8 (e) court reporters and their staff;

9 (f) professional jury or trial consultants, mock jurors, and Professional
10 Vendors to whom disclosure is reasonably necessary for this Action and who have
11 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

12 (g) the author or recipient of a document containing the information or a
13 custodian or other person who otherwise possessed or knew the information;

14 (h) during their depositions, witnesses, and attorneys for witnesses, in
15 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
16 party requests that the witness sign the form attached as Exhibit A hereto; and (2)
17 they will not be permitted to keep any confidential information unless they sign the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
19 agreed by the Designating Party or ordered by the Court. Pages of transcribed
20 deposition testimony or exhibits to depositions that reveal Protected Material may
21 be separately bound by the court reporter and may not be disclosed to anyone except
22 as permitted under this Stipulated Protective Order; and

23 (i) any mediator or settlement officer, and their supporting personnel,
24 mutually agreed upon by any of the parties engaged in settlement discussions and
25 who have signed the “Acknowledgement and Agreement to Be Bound” (Exhibit A).

26
27 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
28 IN OTHER LITIGATION

1 If a Party is served with a subpoena or a court order issued in other litigation
2 that compels disclosure of any information or items designated in this Action as
3 “CONFIDENTIAL,” that Party must:

4 (a) promptly notify in writing the Designating Party. Such notification
5 shall include a copy of the subpoena or court order;

6 (b) promptly notify in writing the party who caused the subpoena or order
7 to issue in the other litigation that some or all of the material covered by the
8 subpoena or order is subject to this Protective Order. Such notification shall include
9 a copy of this Stipulated Protective Order; and

10 (c) cooperate with respect to all reasonable procedures sought to be
11 pursued by the Designating Party whose Protected Material may be affected.

12 If the Designating Party timely seeks a protective order, the Party served with
13 the subpoena or court order shall not produce any information designated in this
14 action as “CONFIDENTIAL” before a determination by the court from which the
15 subpoena or order issued, unless the Party has obtained the Designating Party’s
16 permission. The Designating Party shall bear the burden and expense of seeking
17 protection in that court of its confidential material, and nothing in these provisions
18 should be construed as authorizing or encouraging a Receiving Party in this Action
19 to disobey a lawful directive from another court.
20

21 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
22 PRODUCED IN THIS LITIGATION

23 (a) The terms of this Order are applicable to information produced by a
24 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
25 produced by Non-Parties in connection with this litigation is protected by the
26 remedies and relief provided by this Order. Nothing in these provisions should be
27 construed as prohibiting a Non-Party from seeking additional protections.

28 (b) In the event that a Party is required, by a valid discovery request, to

1 produce a Non-Party's confidential information in its possession, and the Party is
 2 subject to an agreement with the Non-Party not to produce the Non-Party's
 3 confidential information, then the Party shall:

4 (1) promptly notify in writing the Requesting Party and the Non-Party
 5 that some or all of the information requested is subject to a confidentiality agreement
 6 with a Non-Party;

7 (2) promptly provide the Non-Party with a copy of the Stipulated
 8 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 9 specific description of the information requested; and

10 (3) make the information requested available for inspection by the Non-
 11 Party, if requested.

12 (c) If the Non-Party fails to seek a protective order from this Court within
 13 14 days of receiving the notice and accompanying information, the Receiving Party
 14 may produce the Non-Party's confidential information responsive to the discovery
 15 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 16 not produce any information in its possession or control that is subject to the
 17 confidentiality agreement with the Non-Party before a determination by the Court.
 18 Absent a court order to the contrary, the Non-Party shall bear the burden and
 19 expense of seeking protection in this Court of its Protected Material.
 20

21 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 23 Protected Material to any person or in any circumstance not authorized under this
 24 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
 25 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
 26 to retrieve all unauthorized copies of the Protected Material, (c) inform the person
 27 or persons to whom unauthorized disclosures were made of all the terms of this
 28 Order, and (d) request such person or persons to execute the "Acknowledgment and

1 Agreement to Be Bound” that is attached hereto as Exhibit A.

2 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
3 PROTECTED MATERIAL

4 When a Producing Party gives notice to Receiving Parties that certain
5 inadvertently produced material is subject to a claim of privilege or other protection,
6 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
7 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
8 procedure may be established in an e-discovery order that provides for production
9 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and
10 (e), insofar as the parties reach an agreement on the effect of disclosure of a
11 communication or information covered by the attorney-client privilege or work
12 product protection, the parties may incorporate their agreement in the stipulated
13 protective order submitted to the Court.

14
15 12. MISCELLANEOUS

16 12.1 Right to Relief. Nothing in this Order abridges the right of any person
17 to seek its modification by the Court in the future.

18 12.2 Right to Assert Other Objections. By stipulating to the entry of this
19 Protective Order, no Party waives any right it otherwise would have to object to
20 disclosing or producing any information or item on any ground not addressed in this
21 Stipulated Protective Order. Similarly, no Party waives any right to object on any
22 ground to use in evidence of any of the material covered by this Protective Order.

23 12.3 Filing Protected Material. A Party that seeks to file under seal any
24 Protected Material must comply with Civil Local Rule 79-5. Protected Material
25 may only be filed under seal pursuant to a court order authorizing the sealing of the
26 specific Protected Material at issue. If a Party’s request to file Protected Material
27 under seal is denied by the court, then the Receiving Party may file the information
28 in the public record unless otherwise instructed by the court.

1 13. FINAL DISPOSITION

2 After the final disposition of this Action, as defined in Section 4
3 (DURATION), within 60 days of a written request by the Designating Party, each
4 Receiving Party must return all Protected Material to the Producing Party or destroy
5 such material. As used in this subdivision, “all Protected Material” includes all
6 copies, abstracts, compilations, summaries, and any other format reproducing or
7 capturing any of the Protected Material. Whether the Protected Material is returned
8 or destroyed, the Receiving Party must submit a written certification to the
9 Producing Party (and, if not the same person or entity, to the Designating Party) by
10 the 60 day deadline that (1) identifies (by category, where appropriate) all the
11 Protected Material that was returned or destroyed; and (2) affirms that the Receiving
12 Party has not retained any copies, abstracts, compilations, summaries, or any other
13 format reproducing or capturing any of the Protected Material. Notwithstanding this
14 provision, Counsel are entitled to retain an archival copy of all pleadings, motion
15 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,
16 deposition and trial exhibits, expert reports, attorney work product, and consultant
17 and expert work product, even if such materials contain Protected Material. Any
18 such archival copies that contain or constitute Protected Material remain subject to
19 this Protective Order as set forth in Section 4 (DURATION).

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1 14. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or
3 monetary sanctions.
4

5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
6

7 DATED: February 14, 2024

8 **SKAPIK LAW GROUP**

9 /s/ Matthew T. Falkenstein

10 **Matthew T. Falkenstein**
11 Attorneys for Plaintiff

12 DATED: February 14, 2024

13 **OFFICE OF THE LOS ANGELES CITY ATTORNEY**

14 /s/ Shant Taslakian

15 **Shant Taslakian**, Deputy City Attorney
16 Attorneys for Defendant

17 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
18

19 DATED: February 15, 2024

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22 **HONORABLE STEVE KIM**
23 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of perjury
 that I have read in its entirety and understand the Stipulated Protective Order that
 was issued by the United States District Court for the Central District of California
 on [date] in the case of _____ [**insert formal name of the case and the**
number and initials assigned to it by the court]. I agree to comply with and to be
 bound by all the terms of this Stipulated Protective Order, and I understand and
 acknowledge that failure to so comply could expose me to sanctions and punishment
 in the nature of contempt. I solemnly promise that I will not disclose in any manner
 any information or item that is subject to this Stipulated Protective Order to any
 person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print
 or type full name] of _____ [print or type
 full address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this
 Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____